

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

BURLY GRIMES,)	CV 06-17-H-DWM
)	
Petitioner,)	
)	
vs.)	ORDER
)	
MIKE MAHONEY, Warden,)	
)	
)	
Respondent.)	
_____)	

United States Magistrate Judge Carolyn S. Ostby entered her Findings and Recommendation in this matter on June 13, 2006. Grimes timely objected and is therefore entitled to de novo review of the record. 28 U.S.C. § 636(b)(1) (2000).

Grimes filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. He is a state prisoner proceeding *pro se* and *in forma pauperis*. There is no need to recount the factual details of the case as they are familiar to the Parties. I concur with Judge Ostby's Findings-pursuant to Rule 4 of the 2254 Rules, Grimes' Petition cannot pass the preliminary screening because it fails to state a claim for which he is entitled to relief in this Court. As Judge Ostby found, the Court cannot

address his postconviction relief issue and the federal one-year statute of limitation bars other claims that might properly invoke habeas jurisdiction. Consequently dismissal is appropriate.

Accordingly based on the foregoing, IT IS HEREBY ORDERED that Judge Ostby's Findings and Recommendation (dkt #7) are adopted in full; and

IT IS FURTHER ORDERED that Petitioner's Petition (dkt #1) is DISMISSED WITH PREJUDICE.

DATED this 4th day of August, 2006.

/s/ Donald W. Molloy
Donald W. Molloy, Chief Judge
United States District Court